

Message Text

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C O N F I D E N T I A L IAEA VIENNA 4235

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TAGS: IAEA, TECH, PARM

SUBJECT: SAFEGUARDS TRIGGERED BY IAEA TECHNICAL ASSISTANCE

DEPT PASS IO/SCT

1. ASSISTANT DG FISCHER HAS PROVIDED FOLLOWING PAPER
IN CONFIDENCE TO MISSION ENTITLED "SAFEGUARDS ON
TECHNICAL ASSISTANCE" WHICH HE
WILL WISH TO DISCUSS DURING HIS FORTHCOMING VISIT
TO WASHINGTON.

QUOTE 1. THE FOLLOWING POLICY MUST BE FOLLOWED,
IN THE LIGHT OF THE STATUTE AND OF RECENT DECISION OF
THE BOARD AND THE TECHNICAL ASSISTANCE COMMITTEE, IN
PARTICULAR, IN DECEMBER LAST YEAR AND ON THE FRG/
BRAZIL AND FRANCE/PAKISTAN SAFEGUARDS AGREEMENTS:
QUOTE (A) THE AGENCY MUST BE FULLY ASSURED THAT
TECHNICAL ASSISTANCE IS NOT USED IN SUCH A WAY
AS TO FURTHER ANY MILITARY PURPOSE OR FOR THE MANU-
FACTURE OF ANY KINE OF NUCLEAR EXPLOSIVE.

QUOTE (B) IN VIEW OF THE ABOVEMENTIONED DECISIONS OF
THE BOARD, SAFEGUARDS MUST BE APPLIED TO ANY ITEM
WHICH IS DESIGNED, CONSTRUCTED OR BUILT (IN THE
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CASE OF FACILITIES AND EQUIPMENT) OR PREPARED, USED

OR PROCESSED (IN THE CASE OF MATERIAL) BY THE USE OF TECHNOLOGICAL INFORMATION THAT IS TRANSMITTED AS A RESULT OF THE PROVISION OF TECHNICAL ASSISTANCE AND

THAT IS IN A TECHNOLOGICAL AREA INVOLVING THE PRODUCTION OF SPECIAL FISSIONABLE MATERIAL SUCH AS REPROCESSING, ENRICHMENT AND HEAVY WATER PRODUCTION. SAFEGUARDS MUST SIMILARLY BE APPLIED ON ANY SUBSEQUENT GENERATION OF SPECIAL FISSIONABLE MATERIAL PRODUCED, PROCESSED OR USED ON THE BASIS OF OR BY THE USE OF THE ITEMS IN QUESTION.

QUOTE (C) THE APPLICATION OF SAFEGUARDS IS AUTOMATICALLY ACHIEVED IN EACH COUNTRY THAT HAS CONCLUDED SAFEGUARDS AGREEMENTS UNDER THE NPT OR THE TLATELOLCO TREATY OR HAVE IN ANY OTHER WASY PLACED ALL THEIR NUCLEAR ACTIVITIES UNDER AGENCY SAFEGUARDS. NO SPECIAL SAFEGUARDS MEASURES ARE THEREFORE REQUIRED IN SUCH CASES (EXCEPT, POSSIBLY, AN UNDERTAKING THAT IN THE EVENT THE COUNTRIES CEASE TO BE UNDER NPT, ETC., SAFEGUARDS, A SPECIAL SAFEGUARDS AGREEMENT WILL BE CONCLUDED).

QUOTE (D) IN OTHER COUNTRIES IT WILL BE NECESSARY TO CONCLUDE A SPECIAL SAFEGUARDS AGREEMENT COVERING ANY ITEM DESIGNED, CONSTRUCTED, OPERATED, PRODUCED, PROCESSED OR USED AS A RESULT OF TECHNICAL ASSISTANCE GIVEN IN A TECHNOLOGY SUCH AS THOSE REFERRED TO IN SUBPARAGRAPH (B) ABOVE.

QUOTE (E) THIS AGREEMENT WOULD CONTAIN THREE PRINCIPAL UNDERTAKINGS BY THE GOVERNMENT CONCERNED:

QUOTE (I) AN UNDERTAKING OF UNLIMITED DURATION, SIMILAR TO THAT IN ARTICLE 2(2) AND 2(3) OF THE BRAZIL/FRG AGREEMENT (CF, ARTICLE 2 OF THE FRANCE/PAKISTAN AGREEMENT);

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QUOTE (II) AN UNDERTAKING SIMILAR TO ARTICLE X 3(2) OF THE BRAZIL/FRG AGREEMENT THAT ANY PLANT DESIGNED, CONSTRUCTED AND OPERATED WITHIN TWENTY YEARS AFTER THE TERMINATION OF THE TECHNICAL ASSISTANCE WILL AUTOMATICALLY BE PLACED BY THE RECIPIENT COUNTRY UNDER IAEA SAFEGUARDS IF THE PLANT

PERFORMS THE SAME FUEL CYCLE FUNCTION (E.G., REPROCESSING, ENRICHMENT) AS THAT WHICH WAS THE SUBJECT OF THE TECHNICAL ASSISTANCE.

QUOTE (III) AN UNDERTAKING (ALSO OF UNLIMITED DURATION) THAT ANY RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED TO THE RECIPIENT GOVERNMENT AS A RESULT OF THE TECHNICAL ASSISTANCE WILL NOT BE TRANSFERRED TO A RECIPIENT WHICH IS NOT UNDER ITS JURISDICTION UNLESS THE ARRANGEMENTS HAVE BEEN MADE BY THE AGENCY TO APPLY SAFEGUARDS IN CONNECTION WITH THE USE OF SUCH INFORMATION.

QUOTE PROCEDURES TO BE FOLLOWED

QUOTE 2. WHEN THE REQUESTS FOR TECHNICAL ASSISTANCE ARE SUBMITTED TO THE TECHNICAL ASSISTANCE COMMITTEE IN NOVEMBER, THE COMMITTEE WILL BE INFORMED THAT THE REQUESTED ASSISTANCE WILL BE IMPLEMENTED IN CASES WHERE TECHNOLOGIES SUCH AS REPROCESSING, ENRICHMENT AND HEAVY WATER PRODUCTION ARE INVOLVED ONLY AFTER CONCLUSION OF A SAFEGUARDS AGREEMENT AS OUTLINED ABOVE BETWEEN THE AGENCY AND THE RECIPIENT GOVERNMENT. THE DOCUMENT TO THE TECHNICAL ASSISTANCE COMMITTEE WILL THEREFORE CONTAIN, AS AN ANNEX, AN OUTLINE OF THE DRAFT STANDARD SAFEGUARDS AGREEMENT COVERING THE GRANT OF TECHNICAL ASSISTANCE RELATING TO THE TECHNOLOGIES CONCERNED TO NON-NPT OR OTHER "FULL SCOPE" SAFEGUARDS COUNTRIES.

QUOTE 3. THE RELEVANT AGREEMENTS WILL BE SUBMITTED TO THE BOARD FOR APPROVAL IN FEBRUARY 1977

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(OR AT ANOTHER APPROPRIATE DATE) TOGETHER WITH THE REPORT OF THE TECHNICAL ASSISTANCE COMMITTEE.

QUOTE 4. AFTER THE DIRECTOR GENERAL HAS APPROVED THIS POLICY DECISION PAPER, ITS CONTENTS MAY, AFTER APPROPRIATE CONSULTATIONS, BE COMMUNICATED TO GOVERNMENTS THAT HAVE REQUESTED TECHNICAL ASSISTANCE IN THE TECHNOLOGIES CONCERNED.

QUOTE 4. IT WILL BE NOTED THAT THE SAME TYPE OF AGREEMENT WILL BE REQUIRED IRRESPECTIVE OF THE TYPE OF TECHNICAL ASSISTANCE INVOLVED, I.E., FOR FOLLOW-UPS AND SCIENTIFIC VISITS AS WELL AS FOR SERVICES OF EXPERTS OR SPECIALIZED HARDWARE. IT SHOULD BE STRESSED THAT IT IS NOT THE EXPERT OR THE FELLOW THAT

HAS TO BE SAFEGUAJDED BUT RHE PRODUCTS OF THE
TECHNOLOGICAL INFORMATION TRANSMITTED THROUGH THE
EXPERT'S VISIT OR THE FELLOW'S TRAINING. END QUOTE

2. COMMENT: MISSION HAS NOT RPT NOT YET STUDIED PAPER, BUT
WILL DO SO SHORTLY. ONE QUESTION THAT OCCURS TO

US, HOWEVER, IS HOW TO DEAL WITH CASE WHERE
INDIVIDUAL FROM COUNTRY A, WHICH ACCEPTS IAEA SAFE-
GUARDS AS CONDITION FOR IAEA PROVIDING TRAINING
TO SUCH INDIVIDUAL, SUBSEQUENTLY EMIGRATES TO OR ACCEPTS
EMPLOYMENT IN COUNTRY B, WHICH HAS NOT ACCEPTED IAEA SAFEGUARDS?
THERE MAY NOT BE AN ACCEPTABLE SOLUTION TO THIS
KIND OF SITUATION, BUT IT MAY WARRANT SOME THOUGHT.

END COMMENT.

3. FYI: WE UNDERSTAND BRAZIL HS SUBMITTED
REQUEST FOR TWO EXPERTS AND SIX FELLOWHIPS IN
FIELD OF REPORCESSING UNDER AGENCY'S 1977 TECHNICAL
ASSISTANCE PROGRAM. SPAIN REPORTEDLY ALSO SEEKING
AN EXPERT IN THIS FIELD. END FYI. STONE

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